

application(s) and/or declaration(s) should submit their views in writing by December 10, 2001, to the Secretary, Securities and Exchange Commission, Washington, DC 20549-0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After December 10, 2001, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

#### **National Fuel Gas Company (70-9987)**

National Fuel Gas Company ("National"), a registered holding company, 10 Lafayette Square, Buffalo, New York 14203, has filed an application-declaration under sections 32 and 33 of the Act and rule 53 under the Act.

National seeks an increase in its aggregate investment limit in exempt wholesale generators, as defined in section 32 of the Act, ("EWGs"), and foreign utility companies, as defined in section 33 of the Act, ("FUCOs"). By order of the Commission dated March 20, 1998 (HCAR No. 26847) as modified by order dated April 21, 2000 (HCAR No. 27170) ("1998 Order"), National and its subsidiaries are authorized to engage in a program of external financing, intrasystem financing and other related transactions for the period through December 31, 2002. Among other approvals granted, the Commission authorized National to: (i) Issue and sell additional long-term debt and equity securities not to exceed \$2 billion outstanding at any one time; (ii) issue and sell up to \$750 million principal amount of short-term debt in the form of commercial paper and borrowings under credit facilities; and (iii) guarantee securities of its subsidiaries and provide other forms of credit support with respect to obligations of its subsidiaries as may be necessary or appropriate to enable such subsidiaries to carry on in the ordinary course of business in an aggregate amount not to exceed \$2 billion outstanding at any one time.

National was also authorized in the 1998 Order to use the proceeds of authorized financing to invest in and enter into guarantees with respect to the obligations of EWGs and FUCOs, provided that its "aggregate investment" (as defined under rule 53 of the Act) in

EWGs and FUCOs does not exceed 50% of its consolidated retained earnings (as defined in rule 53), except for short-term borrowings by National to provide funds to the National System Money Pool, which may not be used to finance the acquisition of any interest in a FUCO or EWG. As of August 31, 2001, National's aggregate investment in EWGs and FUCOs was approximately \$130,074,000, or 22.3% of National's average consolidated retained earnings (\$583,737,000) for the four quarters ended June 30, 2001.

National is now requesting, under rule 53(c), authority to utilize the proceeds of financing and guarantees, as authorized under the 1998 Order or in any subsequent proceeding, to increase its "aggregate investment" in EWGs and FUCOs ("Exempt Projects") to \$750 million, which is equal to approximately 128% of National's average consolidated retained earnings for the four quarters ended June 30, 2001.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

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#### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-45061; File No. SR-Amex-2001-58]

#### **Self Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval to Proposed Rule Change Relating to the Billing of the Annual Fee for Listed Companies**

November 15, 2001.

On August 2, 2001, the American Stock Exchange LLC filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change that will, in the calendar year in which a company first lists, prorate the annual fee to reflect the portion of the year that the company has been listed, and make the annual fee payable in December based on the total number of outstanding shares at the time of original listing.

The proposed rule change was published for comment in the **Federal**

<sup>1</sup> 15 U.S.C. 78s(b)(1)

<sup>2</sup> 17 CFR 240.19b-4.

**Register** on August 22, 2001.<sup>3</sup> The Commission received no comments on the proposal.

The Commission finds that the proposed rule exchange is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>4</sup> and, in particular, the requirements of section 6 of the Act<sup>5</sup> and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with section 6(b)(5) of the Act<sup>6</sup> because it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act<sup>7</sup> that the proposed rule change (File No. SR-Amex-2001-58) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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#### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-45068; File No. SR-Amex-2001-98]

#### **Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by the American Stock Exchange LLC to Reinstate and Increase Options Transaction Charges**

November 16, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934<sup>1</sup> notice is hereby given that on November 8, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule

<sup>3</sup> See Securities Exchange Act Release No. 44712 (August 22, 2001), 66 FR 44189.

<sup>4</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>5</sup> 15 U.S.C. 78f.

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

change as described in Items I, II, and III below, which Items have been prepared by self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule.

### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to reinstate and increase options transaction charges in select products. The Exchange proposes to increase the fees charged to (1) customers for transactions in index options from \$0.10 to \$0.15; and (2) member firms and non-member broker dealers for transactions in index options from \$0.11 to \$0.15. In addition, the Exchange is proposing to reinstate a customer transaction charge for equity options on the S&P 100 iShares. The transaction charge will be \$0.15 per contract side.

### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

#### **A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change**

##### **(1) Purpose**

Transaction charges are imposed on options trades executed on the Exchange. The charges vary depending on whether the transaction involves an equity or index option and whether the transaction is executed for a specialist's account, a registered options trader account, a member firm's proprietary account, a non-member broker-dealer, or a customer account. The Amex also imposes a charge for clearance of options trades and an options floor brokerage charge, which also depends upon the product and the type of account for which the trade is executed. In April 2000, the Exchange eliminated transaction, floor brokerage, and clearance charges for customer equity option trades. At that time, fees charged to customers for transactions in index

options remained unchanged at \$0.10 per contract.

The Exchange is now proposing to increase the fees charged to (1) customers for transactions in index options from \$0.10 to \$0.15; and (2) member firms and non-member broker dealers for transactions in index options from \$0.11 to \$0.15. In addition, the Exchange is proposing to reinstate a customer transaction charge for equity options on the S&P 100 iShares. The transaction charge will be \$0.15 per contract side. The Exchange believes that these increases are necessary due to the increasing costs incurred in developing and implementing new technology for the fast and efficient trading of options.

##### **(2) Statutory Basis**

The proposed rule change is consistent with section 6(b) of the Act<sup>2</sup> in general and furthers the objectives of section 6(b)(4) of the Act<sup>3</sup> in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

#### **B. Self-Regulatory Organization's Statement on Burden on Competition**

The Exchange does not believe that the proposed rule change will impose any burden on competition.

#### **C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others**

No written comments were solicited or received with respect to the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-2001-98 and should be submitted by December 14, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-45067; File No. SR-CBOE-2001-56]

### **Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Firm Disseminated Market Quotes**

November 16, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 22, 2001, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to

<sup>2</sup> 15 U.S.C. 78f(b).

<sup>3</sup> 15 U.S.C. 78f(b)(4).

<sup>4</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.